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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

KEITH CROSBY, :
Petitioner : Civil No. 1:CV-00-2211
v. : (Judge Kane)
MICHAEL ZENK, :
Respondent :

FILED
HARRISBURG, PA
SEP 12 2001
MARY E. D'ANDREA, CLERK
Deputy Clerk

DEFENDANT'S REPLY TO PETITIONER'S MOTION TO EFFECTIVELY DEFAULT
THE RESPONDENT AND GRANT HABEAS CORPUS RELIEF

This is a habeas action brought by Keith Crosby, an inmate confined at the Allenwood Federal Correctional Institution in White Deer, Pennsylvania ("USP Allenwood"). Crosby has filed a Motion to Effectively Default the Respondent and Grant Habeas Corpus Relief, claiming that respondent did not file or serve a response as ordered by the Court. Respondent argues that he did indeed timely file a response, and the response was served upon Crosby at his current address. This reply is filed in opposition to Crosby's motion.

Statement of Facts

On December 20, 2000, Crosby filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2241. By order of June 4, 2001, respondent was ordered to respond to the allegations in the petition on or before June 25, 2001.

On June 21, 2001, respondent filed a motion requesting a 20-day enlargement of time within which to respond to Crosby's petition. By order of June 27, 2001, the motion was granted and respondent was ordered to respond to the allegations in the petition on or before July 16, 2001.

On July 16, 2001, respondent filed his response to the petition for habeas corpus. A copy of the response was served upon Crosby pursuant to Fed.R.Civ.P. 5(b). See Certificate of Service attached.

Crosby filed the instant "Motion to Effectively Default the Respondent and Grant Habeas Corpus Relief," claiming that as of August 22, 2001, he was not served with defendant's response. Crosby's motion asks the Court to hold respondent in contempt and grant the habeas relief he requests.

Argument

Respondent's response to Crosby's petition for habeas corpus was filed with the Court on July 16, 2001. Crosby was served with the response on that same date. A certificate of service was attached to that response, certifying that Crosby was served at his current address by United States mail on July 16, 2001. Therefore, Crosby's motion to default should be denied.

Respondent notes that this response to Crosby's motion to default was due to be filed by September 11, 2001; however,


due to the attack on the United States in New York City and Washington D.C., the Clerk of Courts Office closed on September 11, 2001. Therefore, this response is being filed on September 12, 2001.

Conclusion

For all of the foregoing reasons, Crosby's motion to default should be denied.

Respectfully submitted,

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Date: September 12, 2001

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 12th day of September, 2001, she served a copy of the attached

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DEFAULT THE RESPONDENT AND GRANT HABEAS CORPUS RELIEF

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

ADDRESSEE:

Keith Crosby
Reg. No. 29802-066
FCI Allenwood
P.O. Box 2000
White Deer, PA 17887


ANITA L. LIGHTNER
Paralegal Specialist